

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

JEREMY FONTANEZ,

Petitioner,

v.

CIVIL ACTION NO.: 1:15CV182
(Judge Keeley)

WARDEN TERRY O'BRIEN,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 6]

On November 25, 2014, the pro se petitioner, Jeremy Fontanez ("Fontanez"), an inmate at FCI Hazelton, filed a petition pursuant to 28 U.S.C. § 2241, alleging that Bureau of Prison ("BOP") officials had confiscated his eagle feathers, which he maintained were a part of his Native American religious practice (dkt. no. 1). For relief, he asked the Court to "decide this case in a way that ensures the B.O.P. cannot deprive Petitioner, or anyone else in his position, of his right to possess integral eagle feather for purposes of religious practices." Id. at 8.

The Court referred this matter to United States Magistrate Judge Robert W. Trumble for initial screening and a Report and Recommendation ("R&R") in accordance with LR PL P 2. On November 12, 2015, Magistrate Judge Trumble issued his R&R, in which he concluded that the Fontanez could not bring his claim through a § 2241 habeas corpus petition, which attacks the validity, manner, or length of a prisoner's confinement (dkt. no. 6 at 1-2). Instead of a habeas petition, Fontanez would need to file a Bivens action in

ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 6]

order to pursue the relief he requested. Id. at 2. Accordingly, the R&R recommended that the Court dismiss the petition without prejudice. Id. at 2-3.

The R&R also specifically warned Fontanez that his failure to object to the recommendation would result in the waiver of any appellate rights he might otherwise have on this issue. Id. at 3. Fontanez did not file any objections.¹ Consequently, finding no clear error, the Court **ADOPTS** the R&R in its entirety (dkt. no. 6) and **DISMISSES** Fontanez's petition **WITHOUT PREJUDICE**.

It is so **ORDERED**.

Pursuant to Fed. R. Civ. P. 58, the Court directs the Clerk of Court to enter a separate judgment order and to transmit copies of this order to the pro se petitioner, certified mail, return receipt requested.

Dated: December 6, 2016.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE

¹ The failure to object to the Report and Recommendation not only waives the appellate rights in this matter, but also relieves the Court of any obligation to conduct a de novo review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-53 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).